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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,667	12/30/2003	Yoshihiro Kohara	02283CIP/LH	9755
1933	7590	11/17/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			BLANKENSHIP, GREGORY A	
220 5TH AVE FL 16			ART UNIT	
NEW YORK, NY 10001-7708			PAPER NUMBER	

3612

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,667

Applicant(s)

KOHARA ET AL.

Examiner

Greg Blankenship

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 21, 26, 31 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5, 7-9, 14-17 and 26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 13, 31 and 33-35 is/are rejected.
- 7) ☒ Claim(s) 2, 6, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 10/147,750.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 1, 3, 10, 13, and 33-35 is withdrawn in view of the newly discovered reference(s) to Klein et al. (4,277,099). Rejections based on the newly cited reference(s) follow.

Election/Restrictions

2. Claims 4, 5, 7-9, 14-17, and 26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/23/2005.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 31 and 33-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 31 is not clearly understood. It is not clear if the foam having a specific gravity of 0.05-0.4 forms only one layer, the sound absorption layer, or if the part of the material claimed on lines 9-11 is a layer separate from the sound absorption layer claimed on lines 12-13. It is believed that the claimed foam only forms the sound absorption layer. If this is correct, applicant should remove lines 9-11 and change "said foam", on line 13, to --a foam--.

Claim 33 is not clearly understood. It is not clear if the foam having a specific gravity of 0.05-0.4 forms only one layer, the sound absorption layer, or if the part of

the material claimed on lines 9-11 is a layer separate from the sound absorption layer claimed on lines 12-13. It is believed that the claimed foam only forms the sound absorption layer. If this is correct, applicant should remove lines 9-11 and change "said foam", on line 13, to --a foam--.

Claim 35 is not clearly understood. It is not clear if the foam having a specific gravity of 0.05-0.4 forms only one layer, the sound absorption layer, or if the part of the material claimed on lines 9-11 is a layer separate from the sound absorption layer claimed on lines 12-13. It is believed that the claimed foam only forms the sound absorption layer. If this is correct, applicant should remove lines 9-11 and change "said foam", on line 13, to --a foam--.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 10, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (4,277,099) in view of Ellul et al. (6,433,090).

Klein et al. disclose an upper seal (3) that reads on the claimed material. The material (3) is attached to a bottom edge of a periphery of a lower portion of a door (2), as seen in The Figure. The material (3) is equipped above a seal member (6).

The seal member (6) makes a resilient contact with a body panel of the vehicle, as seen in The Figure, to form a seal between the inside and the outside of the vehicle.

The material (3) is inherently able to restrain noise. In reference to claims 10 and 35,

the material (3) is formed of a base portion and a hollow tubular portion, as seen in The Figure. The base portion rests on the noise insulation layer. The hollow tubular portion covers a side of the base portion and thus rests on the noise absorption layer. However, Klein et al. do not disclose the noise insulation layer and the sound absorption layer being formed of foam having the claimed specific gravity. Ellul et al. teach forming a vehicle door seal of a foam having a specific gravity of about 0.4, as disclosed on lines 45-52 of column 12 and Table IV (sample 19).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form both the base portion and the hollow tubular portion of the upper seal of Klein et al. of foam having a specific gravity of about 0.4, as taught by Ellul et al., to provide a seal that is both resilient and durable.

7. Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Klein et al. (4,277,099) and Ellul et al. (6,433,090), as applied to claims 1 and 10; respectively, in view of Royse (6,367,865).

Klein et al., as modified, does not have a plurality of protrusions on the surface of the upper seal.

Royse discloses vehicle door seal (10) having protrusions on its surface, as seen in Figures 7-14.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the upper seal of Klein et al., as modified, to have protrusions on its surface, as taught by Royse, to assist in occluding the gap between the door and the body panel.

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8. Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Klein et al. (4,277,099) in view of Ellul et al. (6,433,090), further in view of Mass et al. (4,362,427).

Klein et al. disclose an upper seal (3) that reads on the claimed material. The material (3) is attached to a bottom edge of a periphery of a lower portion of a door (2), as seen in The Figure. The material (3) is equipped above a seal member (6). The seal member (6) makes a resilient contact with a body panel of the vehicle, as seen in The Figure, to form a seal between the inside and the outside of the vehicle. The material (3) is inherently able to restrain noise. The material has a base portion and a hollow tube portion. Both the base portion and the hollow tube portion form the noise absorption layer. However, Klein et al. do not disclose the claimed specific gravity of the noise absorption layer nor does it disclose the claimed noise insulation layer.

Ellul et al. teach forming a vehicle door seal of a foam having a specific gravity of about 0.4, as disclosed on lines 45-52 of column 12 and Table IV (sample 19).

Mass et al. teach forming a seal (10) with a layer formed of a plurality of member (44) that extend along the longitudinal direction of the seal to increase the strength of the seal's base (12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to:

form the upper seal of Klein et al. of foam having a specific gravity of about 0.4, as taught by Ellul et al.;

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embed a layer formed of a plurality of members into the base of the upper seal of Klein et al. such that they extend along the longitudinal direction of the seal, as taught by Mass et al.; and

form the plurality of members of a material having a specific gravity of about 0.4 or more to provide a seal with a resilient tubular portion and a reinforced base portion to improve wear, resulting in the noise absorption layer covering the plurality of members that form the noise insulation layer.

Allowable Subject Matter

9. Claims 2, 6, 11, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claim 21 is allowed.

11. Claim 31 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

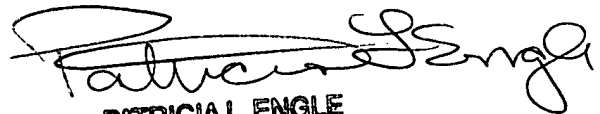
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Blankenship whose telephone number is 571-272-6656.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gab
November 8, 2005


PATRICIA L. ENGLE
PRIMARY EXAMINER
Art Unit 3612